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**AUG 23 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Albert L.V.J. Claessens :  
Application No. 09/980,227 :  
Filed: March 25, 2002 : ON PETITION  
Attorney Docket Number: :  
23655IN2PCT/US :

This is a decision on the Petition to Withdraw Holding of Abandonment, filed November 16, 2004. The petition is properly treated under 37 C.F.R. 1.181. The delay in treating the petitions is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication, mailed April 7, 2004. The Office communication set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned May 8, 2004. A Notice of Abandonment was mailed November 4, 2004.

The instant petition

Applicant files the instant petition and provides that a timely response to the Office communication was filed. In support of

this assertion, Applicant files a copy of a return-receipt postcard acknowledging receipt of an Election and Certificate of Mailing on May 10, 2004.

### Analysis

A review of the postcard reveals that Applicant is correct. The postcard acknowledges receipt of an Election and Certificate of Mailing by this Office on May 10, 2004.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, Applicant has demonstrated that a timely reply to the Office communication was filed. However, a review of the copy of the Election filed May 10, 2004 reveals that Applicant failed to execute either the Election or the Certificate of Mailing.

While Applicant filed a reply to the Office communication on May 10, 2004, the reply was not a complete and proper reply. 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b)).

### Conclusion

Applicant failed to demonstrate that a complete and proper reply to the Office communication was timely filed. The petition is, therefore, dismissed.

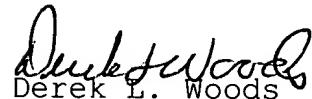
Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
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